

§ 70.208 Review of jeopardy assessment or jeopardy levy procedures; information to taxpayer.

Not later than 5 days after the day on which an assessment is made under 26 U.S.C. 6862 or when a levy is made less than 30 days after the notice and demand described in 26 U.S.C. 6331(a), the official who authorized the assessment or levy shall provide the taxpayer a written statement setting forth the information upon which that official relies in authorizing such assessment or levy.

(26 U.S.C. 7429(a)(1))

§ 70.209 Review of jeopardy assessment or levy procedures; administrative review.

(a) *Request for administrative review.* Any request for the review of a jeopardy assessment or levy provided for by 26 U.S.C. 7429(a)(2) shall be filed with the official who authorized the assessment or levy, within 30 days after the statement described in § 70.208 of this part is given to the taxpayer. However, if no statement is given within the 5-day period described in § 70.208, any request for review of the jeopardy assessment shall be filed within 35 days after the date the assessment is made. Such request shall be in writing, shall state fully the reasons for the request, and shall be supported by such evidence as will enable the reviewing official to make the redetermination described in 26 U.S.C. 7429(a)(3).

(b) *Administrative review.* In determining whether the assessment or levy is reasonable and the amount assessed appropriate, the reviewing official shall take into account not only information available at the time the assessment is made but also information which subsequently becomes available.

(26 U.S.C. 7429(a)(2))

§ 70.210 Review of jeopardy assessment or levy procedures; judicial action.

(a) *Time for bringing judicial action.* An action for judicial review described in 26 U.S.C. 7429(b) may be instituted by the taxpayer during the period beginning on the earlier of:

(1) The date of the reviewing official notifies the taxpayer of the determination described in 26 U.S.C. 7429(a)(3); or

(2) The 16th day after the request described in 26 U.S.C. 7429(a)(2) was made by the taxpayer; and ending on the 90th day thereafter.

(b) Extension of the period for judicial review. The U.S. Government may not seek an extension of the 20-day period described in 26 U.S.C. 7429(b)(2), but it may join with the taxpayer in seeking such an extension.

(26 U.S.C. 7429)

§ 70.213 Repayments to officers or employees.

The Director is authorized to repay to any officer or employee of the Bureau the full amount of such sums of money as may be recovered against such officer or employee in any court for any taxes imposed under provisions of 26 U.S.C. enforced and administered by the Bureau collected by such officer or employee with the cost and expense of suit, and all damages and costs recovered against any officer or employee of the Bureau in any suit brought against such officer or employee by reason of anything done in the official performance of duties under the provisions of 26 U.S.C. enforced and administered by the Bureau.

(26 U.S.C. 7423)

LIMITATIONS

Limitations on Assessment and Collection

§ 70.221 Period of limitations upon assessment.

(a) The amount of any tax imposed by the Internal Revenue Code (other than a tax collected by means of stamps) shall be assessed within 3 years after the return was filed. For rules applicable in cases where the return is filed prior to the due date thereof, see section 6501(b) of the Internal Revenue Code. In the case of taxes payable by stamps, assessment shall be made at any time after the tax becomes due and before the expiration of 3 years after the date on which any part of the tax was paid. For exceptions and additional rules, see subsections (b) and (c) of section 6501 of the Internal Revenue Code.

(b) No proceeding in court without assessment for the collection of any tax shall be begun after the expiration of the applicable period for the assessment of such tax.

(26 U.S.C. 6501)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

§ 70.222 Time return deemed filed for purposes of determining limitations.

(a) *Early Return.* Any return filed prior to the last day prescribed by law or regulations for the filing thereof (determined without regard to any extension of time for filing) shall be considered as filed on such last day.

(b) *Returns executed by regional directors (compliance) or other ATF officers.* The execution of a return by a regional director (compliance) or other authorized officer or employee of the Bureau of Alcohol, Tobacco and Firearms under the authority of section 6020(b) of the Internal Revenue Code shall not start the running of the statutory period of limitations on assessment and collection.

(26 U.S.C. 6501)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

§ 70.223 Exceptions to general period of limitations on assessment and collection.

(a) *False return.* In the case of a false or fraudulent return with intent to evade any tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after such false or fraudulent return is filed.

(b) *Willful attempt to evade tax.* In the case of a willful attempt in any manner to defeat or evade any tax imposed by provisions of 26 U.S.C. enforced and administered by the Bureau, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *No return.* In the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after

the date prescribed for filing the return.

(d) *Extension by agreement.* The time prescribed by 26 U.S.C. 6501 for the assessment of any tax imposed by provisions of 26 U.S.C. enforced and administered by the Bureau may, prior to the expiration of such time, be extended for any period of time agreed upon in writing by the taxpayer and the regional director (compliance) or the Chief, Tax Processing Center. The extension shall become effective when the agreement has been executed by both parties. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(26 U.S.C. 6501)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47641, Nov. 14, 1990; T.D. ATF-331, 57 FR 40328, Sept. 3, 1992]

§ 70.224 Collection after assessment.

(a) *Length of period—(1) General rule.* In any case in which a tax has been assessed within the statutory period of limitation properly applicable thereto, a proceeding in court to collect such tax may be begun, or levy for the collection of such tax may be made, within 6 years after the assessment thereof.

(2) *Extension by agreement.* (i) The 6-year period of limitation on collection after assessment of any tax may, prior to the expiration thereof, be extended for any period of time agreed upon in writing by the taxpayer and the regional director (compliance). Whenever necessary to protect the revenue, the Chief, Tax Processing Center may also execute a written agreement with the taxpayer to extend the period of limitation. The extension shall become effective upon execution of the agreement by both the taxpayer and the regional director (compliance) or the Chief, Tax Processing Center.

(ii) The period of limitation on collection after assessment of any tax (including any extension of such period) may be extended after the expiration thereof if there has been a levy on any part of the taxpayer's property prior to such expiration and if the extension is